

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
Plaintiff-Appellee.

v.

No. 95-5140

GERALD DAVID DAVAGE,  
Defendant-Appellant.

Appeal from the United States District Court  
for the District of Maryland, at Greenbelt.  
J. Frederick Motz, Chief District Judge;  
Peter J. Messitte, District Judge.  
(CR-94-41-PJM)

Submitted: March 12, 1996

Decided: June 26, 1996

Before HALL and WILKINS, Circuit Judges, and PHILLIPS,  
Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

James K. Bredar, Federal Public Defender, Sigmund R. Adams,  
Assistant Federal Public Defender, Baltimore, Maryland, for Appel-  
lant. Lynne A. Battaglia, United States Attorney, Douglas B. Far-  
quhar, Assistant United States Attorney, Greenbelt, Maryland, for  
Appellee.

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## OPINION

### PER CURIAM:

Gerald Davage appeals from the district court's judgment order entered pursuant to a jury verdict finding him guilty of conspiring to rob an armored car guard, in violation of 18 U.S.C.A. § 371 (West 1988 & Supp. 1995), robbing an armored car guard, in violation of 18 U.S.C. § 1951 (1988), and using a firearm in commission of a crime of violence, in violation of 18 U.S.C. § 924(c) (1988). The only issue raised in Davage's formal brief relates to the trial court's response to a note sent by the jury relating to whether Davage had a prior criminal record. Because no evidence regarding a prior record was introduced at trial, the trial court responded that "[t]here is no evidence before you that Mr. Davage has a prior criminal record."

We disagree with Davage's assertion that the jury's question and the court's response support the inference that the jury improperly believed that Davage had a criminal record when it rendered its verdict. The mere fact that a jury requests extrinsic information does not mean that it ultimately relied on that information in reaching its decision. See Harrison v. Otis Elevator Co., 935 F.2d 714, 718 (5th Cir. 1991). Moreover, contrary to Davage's contention, we think that the trial court's response in this case to the jury's question should have apprised the jury that consideration of whether or not Mr. Davage had a criminal record would be improper. We therefore find that the trial court's response did not constitute an abuse of discretion. See United States v. Horton, 921 F.2d 540, 546 (4th Cir. 1990).

While we grant Davage's motion to file a pro se supplemental brief out of time on appeal, we have reviewed the contentions raised in his brief and find no reversible error. Accordingly, the judgment order of the district court is affirmed. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

### AFFIRMED